No. 82531-9

IN THE SUPREME COURT
FOR THE STATE OF WASHINGTON

JOSE GUILLEN,
Respondent,

v.

LORENA CONTRERAS, guardian of
JESUS JAIME TORRES, JR.,
Appellant.

AMICUS CURIAE BRIEF OF THE WASHINGTON ASSOCIATION OF CRIMINAL DEFENSE LAWYERS

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TABLE OF CONTENTS

TABLE OF AUTHORITIES

Cases

Statutes

Other Authorities

A. ASSIGNMENT OF ERROR

The Court below erred in failing to award attorney's fees to the Claimant after he had substantially prevailed on his claims made on behalf of two of the *in rem* Defendant properties.

B. STATEMENT OF THE CASE

On June 28, 2005 the City of Sunnyside seized property that it asserted was related to trafficking in a counterfeit drug. CP 45. In reality, the substance was ground up sheet rock. CP 209-10. The police seized $9,342.00 that was found on the body of Jose Torres,[1] the father of the claimant in this action. CP 110, 194. They also seized a 1997 BMW 328 coupe alleged to have conveyed Mr. Torres and Mr. Sanchez from Pasco to the fatal scene in Sunnyside. CP 201 . Finally, the police seized $57,990.00 located on a sofa in the dwelling where the transaction was about to or had just taken place. CP at 111.

It is unclear from the record whether Torres Sr. was selling the drugs or buying them. The record reveals facts from which one could conclude that the fake drugs had not yet been delivered, or that having been delivered they were removed by Mr. Sanchez so that they would not be discovered by

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1 The police initially found $7,743.00 in Mr. Torres' pockets. During the course of the autopsy, an additional $2,200.00 was found deeper in his pant's pocket. CP 110.

officers responding to the scene of the shooting. Nonetheless, lower courts have all assumed that the drugs were purchased by Torres, Sr. and that he had already taken delivery of them before the shooting took place. CP 45, 186.

The City served its Notice of Intended Forfeiture on the address of record for Jesus Torres on July 7, 2005, listing only the 1997 BMW and the $9,943.00.[2] No mention was made of the $57,990.00. A separate Notice of Forfeiture for that sum was prepared and served on August 2, 2005 on Graciela Perez, who was identified as being connected to the dwelling in which the currency was found. CP 125, 143. The Notice for the $57,990.00 was not served on Claimant herein. However, on September 26, 2005, counsel for Claimant herein sent a letter demanding a hearing on the $57,990.00. CP 212. That request was separate from the request for hearing that had been filed as to the BMW and the $9,943.00, and does not reference the earlier request for a hearing on that property. *Id.*

The hearing proceeded administratively and hearing officer ruled against Claimant on all claims. CP 186-87. An appeal was taken to the Superior Court for Yakima County. CP at 234.

The Superior Court reversed the hearing officer on the forfeitures of the $9,943.00 and the BMW, finding that there was no evidence of an

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2 A copy of the Notice of Seizure and Intended Forfeiture was marked as Exhibit A to the Municipal Court proceeding and is included in the record on appeal at CP 194. A copy of Exhibit A is reproduced in the Appendix to this brief.

intention that the cash be exchanged for drugs and that Claimant was the innocent owner of the BMW immediately upon the death of his father. As to the larger sum, $57,990.00, the Superior Court ruled that it had already been exchanged for the fake drugs and ownership had passed from Torres, Sr. to the drug seller, presumably Mr. Perez. Thus, the Claimant had no standing to oppose the forfeiture. CP at 45 - 53.

Since Claimant had prevailed on two of the three claims he sought attorney's fees under RCW 69.50.505(6). The Superior Court ruled that neither side had substantially prevailed and denied fees. RP 10-11. Claimant sought discretionary review in the Court of Appeals, which granted the petition and affirmed the Superior Court. *Guillen v. Contreras*, 147 Wn. App. 326, 195 P.3d 90 (2008). This Court has granted review. 166 Wn.2d 1018 (2009).

C. ARGUMENT

1. Standard of Review

As the Court of Appeals stated in its opinion below, the standard of review is de novo. *Guillen*, 147 Wn. App. at 330-31.

2. The Joinder of the Forfeiture Proceeding Against the $57,990.00 Should Not Prevent the Award of Attorney's Fees to Claimant, who Succeeded in Recovering the Two Other Pieces of Property, a Car and $9,342.00

The right to property ownership is threatened when the City is able to use its significant economic advantage to defeat an individual claimant. If the property has a large value, the best the owner can hope is to retain a fraction of its value after paying fees for litigation. For most personal property like a car or a few thousand dollars, victory by an owner results in a net economic loss. Some will fight the battle because of sentimental value, others for the principal, but the majority will buckle under and move on, resulting in a *de facto* forfeiture. In such a circumstance the right to property is no longer secured and one of the guarantees of personal liberty at the root of our Constitution is at risk.

The federal and state amendments to the forfeiture laws passed at the start of this decade were intended to arm the citizen with the means to prevent *de facto* default takings due to this economic disparity.

In this case, the Claimant successfully prevented the taking of two relatively small pieces of property, an eight-year-old car and $9,943.00. Without the recovery of attorney's fees, Claimant would end up having to sell the car to pay the attorney's fees, which would have already swallowed all of

the cash.[3] In no sense, would the Claimant be made whole by virtue of prevailing in the forfeiture proceeding.

If the car and smaller cash sum had been all that were adjudicated that day in the Sunnyside Municipal Court, then an award of attorney fees would have been mandatory under RCW 69.50.505(6). Here, however, a third piece of property was joined into the hearing regarding the car and the cash. The record here is silent as to how that joinder of defendant properties came about. The $57,990.00 was not a part of the Notice of Intent to Forfeit to which Claimant initially responded. It was a separate forfeiture that had been initiated by notice to Ms. Perez. After the forfeiture hearing on the car had been initiated by notice and a request for hearing, Claimant did file a separate request for a hearing on the $57,990.00. Somehow, for reasons unexplained in the record, the second forfeiture was joined into the hearing being held on the car and the personal cash.

The question here is: should that fortuity affect in any way the right to have attorney fees for the items that were successfully wrested from the seizing fingers of the City?

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[3] There is nothing in the record to indicate that the father had any other possession to leave to his son. This scant inheritance stands to be reduced by $10,910 in legal fees and costs required to litigate over just the two items that were recovered. CP 32-36 & 67-70.

3. Joinder of Property for Adjudication Does Not Alter the Status of Each Property as an Individual Defendant in Rem

Under RCW 69.50.505 forfeiture of each piece of property is a distinct and separate taking. RCW 69.50.505(1) sets forth eight categories of property that are forfeitable, each generally for a different reason. Some property is forfeitable because it is contraband, some because it is packaging and some because it is used as a conveyance. A broad category is forfeitable because of the use or intended use which facilitates an illegal activity. Each type of property has a different statutory basis for forfeiture and a different kind of proof. The allegations in this case fell into three separate statutory categories:

- The smaller sum of $9,943.00 was alleged to be forfeitable because someone intended it to be used in a drug transaction.
- The larger sum of $57,990.00 was forfeited because it had been exchanged for the counterfeit controlled substance.
- The car was alleged to have been intended for use as a conveyance to drive the drugs back to Pasco.

The point is that this forfeiture wasn't a forfeiture of a unitary whole. Each of the claims was distinct and severable. The success or failure of the Claimant should similarly be judged separately as to each such claim. In *Marassi v. Lau*, 71 Wn. App. 912, 859 P.2d 605 (1993) the Court determined

that when contract breaches consist of several distinct and severable claims "a proportionality approach is more appropriate," because it "awards the plaintiff attorney for the claims it prevails upon." *Id.* at 917. *See Talmadge, The Award of Attorneys' Fees in Civil Litigation in Washington*, 16 Gonz. L. Rev. 57, 69-70 (1980-81).[4]

The legislative intent is to give claimants the means to resist forfeitures of multiple items of property. But consider the effect of the rule as announced by the Court of Appeals below. Property owners are taught that they should only defend those possessions on which they are certain to succeed. Claimant here is told that he should never have challenged the large currency taking, because it meant that he stood to lose all economic benefit won in resisting the taking of his father's car and the money found on his dead body. The lesson is easily understood. Be careful what you challenge. If the issue is debatable, let it go or else the protections of RCW 69.50.505(6) may be lost if you don't succeed on every claim. Instead of promoting the ability of property owners to secure counsel to protect their property, the result will be a reversion to a more guarded or selective protection, allowing

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[4] In *Marassi* the plaintiff prevailed on only 2 of his original 12 claims. Attorney's fees were awarded to him on his successful claims and fees were awarded to the defendant on the claims that were defeated. Unlike *Marassi*, the City of Sunnyside is statutorily ineligible for fees in a civil forfeiture proceeding because it is not deemed a claimant and the statute permits fees to be shifted in only one direction. *Bruett v. 18328 11th Ave. N.E.*, 93 Wn. App. 290, 303, 968 P.2d 913 (1998); *Deeter v. Smith*, 106 Wn.2d 376, 380, 721 P.2d 519 (1986).

the state to win less compelling cases simply because they involve property of significant value. That truly turns the intent of the legislation on its head.

The problem has always been that the government will prevail by default because citizens will be either too poor or too risk adverse to defend themselves. A rule that allows the government to chill the willingness to resist forfeiture of one piece of property because it will destroy the economic benefit from success on other property gives the government an advantage. It serves to defeat the very purpose of Washington's statute which is to force the government to its proof and not compel the property owner to fold his cards at the start because the risk is too great.

The rationale of the decision below is flawed for several reasons. First, it ignores the purpose of the statute and defeats the legislative attempt to enable the citizen to resist the seizure of property. Second, it arbitrarily uses dollar value as the sole measure of success. This serves as a false measure: an owner has the right to resist the taking of any of his property regardless of its market value. And, where as here, the basis for each taking falls under a different section of the statute, it beggars reason to treat them as a unified whole. Just as the lower courts counted stacks of dollars and measured their height, one could just have easily counted the number of objects and concluded that the Claimant substantially prevailed because he

won two out of three times.[5] Either standard is an arbitrary and artificial attempt to determine if the talisman of "substantially prevailed" has been satisfied. Neither is grounded in the purposes of the enactment.

The question should be: Did the owner keep this piece of property in the face of a failed governmental taking, and if so, what did that individual victory cost? That cost then needs to be shifted or else the claimant will never be made whole. *See United States v. Certain Real Prop., Located at 317 Nick Fitchard Rd., N.W., Huntsville, AL*, 579 F.3d 1315, 1322-1323 (11th Cir. 2009) (construing the federal statute by reference to it's legislative history - 'the stated purpose of CAFRA is 'to make federal civil forfeiture procedures fair to property owners and to give owners innocent of any wrongdoing the means to recover their property and make themselves whole after wrongful government seizures.')

The Court of Appeals' analysis is also flawed because it fails to recognize the unique nature of *in rem* forfeitures. The lower courts looked at this case and treated Claimant as if he were the defendant, who was asserting three claims. But the Claimant was never the defendant; the items of personal property were.

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5 *C.f. Guillen v. Pierce County*, 144 Wn.2d 696, 31 P.3d 628 (2001) ("Lastly, we agree with the Court of Appeals that Guillen is entitled to attorneys fees under RCW 42.17.340(4) since the record suggests that he was entitled to at least four of the five items to which he was denied access in his PDA case.")

A forfeiture of this nature is actually an action in which each item of property is an individual defendant *in rem*. *Rozner v. Bellevue*, 116 Wn.2d 342, 351, 804 P.2d 24 (1991).The claimant acts essentially as the next friend of the property, providing the defense and reaping the benefit of a successful outcome. But, each *in rem* defendant property wins or loses on its own without regard for the success of its co-defendants. The City doesn't get to roll its victory over one asset into a victory over the next. Success against money found on the sofa doesn't result in a victory over the money found on Claimant's father's body.

Consider any criminal or civil case in which there are multiple defendants. The fact that the person sitting next to you is going to prison doesn't diminish the verdict that sets you free. Each individual item of property is similarly judged separately on its own merits regardless of how they are joined together for trial. When the claimant substantially prevails on that item of property he or she is entitled to reasonable attorney fees no matter if others items don't win.

The reason for the joint trial in this case is not apparent from the record. The forfeitures were initiated by two separate Notices of Forfeiture [6] under RCW 69.50.505(3) and separate requests were sent for hearing. CP at

[6] The Notice of Forfeiture dated July 7, 2005 referenced both the 1997 BMW and the smaller amount of cash, $9,943.00, that had been found on Torres Sr.'s body. CP 194.

212. It appears that a joint hearing was held for reasons of judicial economy. That joinder should not affect substantive rights to fees on the successful defense of the property referenced in the July 7, 2005 notice.

The federal courts have considered the question of whether *in rem* forfeitures should be treated as a unified whole or as individually distinct forfeitures against each item of property sought to be confiscated. Before the adoption of CAFRA, a forfeiture was initiated against property in Woodland Hills, California. The residence, a Porsche, a truck and several million dollars were seized. As matters turned out, the claimant prevailed on only the real property, which represented 28.7% of the total value of the defendant properties joined in the complaint. A fee application was made under the Equal Access to Justice Act, which unlike RCW 69.50.505(6) and CAFRA, contained a provision denying fees in cases in which the Government was "substantially justified" in pursuing the case.[7] The Government argued that the property needed to be viewed as a whole and since it had succeeded in winning nearly 3/4 of the assets it was necessarily substantially justified. This unitary approach was rejected for precisely the reasons Amicus argues today. The Court held:

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[7] *Cf. Moen v. Spokane City Police Department*, 110 Wn. App. 714, 42 P.3d 456 (2002) (affirming trial court's grant of attorney's fees under Washington's Equal Access to Justice Act, RCW 4.84.350, before the effective date of the amendments to RCW 69.50.505(6). The opinion was written by Chief Judge Schultheis, who is the author of the dissent in today's case.

> The government argues first, that because it successfully obtained forfeiture of the bulk of the assets involved in this action, it cannot be said that under the totality of the circumstances the government's overall position was not substantially justified. We must, however, view the government's position separately with respect to each of the forfeiture defendants. Civil forfeiture actions . . . are *in rem* proceedings in which the property seized is the defendant . . . That the government chose to join defendants under Federal Rule of Civil Procedure 20(a) does not allow it to escape liability for unjustified positions with respect to any one of them. We must, therefore, determine whether the government's position with respect to the Dolorosa property was substantially justified without regard to the forfeiture of most of claimants' other properties.

United States v. Real Prop. Known as 22249 Dolorosa St., Woodland Hills, Cal., 190 F.3d 977, 982 (9th Cir. 1999) (citations omitted). Applying that precedent here, each of the City's attempts to forfeit property should be evaluated in the context of each separable claim joined in the single administrative adjudication in the Municipal Court. The City should not get a bye for having joined its winner with its losers. Each act of forfeiture stands on its own. Each is entitled to defense, and where the claimant prevails on an individual item of property (or substantially prevails on it), there is a statutory entitlement to be made whole by receiving reasonable attorney's fees and costs.

In analyzing RCW 69.50.505(6) it is necessary to keep in mind the intended purposes of the act. The 2001 amendments were intended to even things up a bit by changing the burden of proof and providing property

owners with a means to afford legal representation. The goal was to protect property rights by instituting fee shifting in more cases. As this Court emphasized in a Labor and Industries case, the purpose of the attorney fee legislation guides its application.

> Central to the calculation of an attorney fees award, however is the underlying purpose of the statute . . . . This court has recognized that specific statutes authorizing the award of attorney fees may be designed to serve purposes other than the general purpose of most fee shifting statutes: to punish frivolous litigation and encourage meritorious litigation. *Scott Fetzer Co.*, 122 Wn.2d at 149. . . . Given that attorney fees statutes may serve different purposes, **it is important to evaluate the purpose of the specific attorney fees provision and to apply the statute in accordance with that purpose.**

Brand v. Dep't of Labor & Indus., 139 Wn.2d 659, 989 P.2d 1111 (1999), (emphasis added).

In *Brand* this Court focused on the need to make the claimant whole. Industrial insurance unlike torts, did not contain an element of general damages which add to the recovery for economic loss and provide a margin for attorneys to take a contingent fee. Therefore, unless fees are shifted the injured workman would never be made whole and the "social objectives of the legislation may to some extent be thwarted. . . . There is nothing to indicate that the framers of the benefit rates included any padding to take care of legal and other expenses incurred in obtaining the award." *Id.* at 671,

quoting Larson & Larson, *Larson's Workers' Compensation Law* § 83.11 (1999).

Just as in the worker's compensation context, there is no padding in returning a possession to its owner. If the owner has to sell his property to pay his lawyer, then every forfeiture proceeding defended by a person of average or lesser means will result in a loss of the specific property, even in cases where the Government had little or no basis for initiating the forfeiture. The claimant will never be made whole.[8] Under that circumstance the social objectives of the legislation would be thwarted.

In this case, the issue on which Claimant was unsuccessful was whether he had standing to make a claim for the $57,990, the money that his father had allegedly already spent to buy the fake drugs. While an argument could have been made that there was a failure of consideration or fraud in the inducement vitiating the sale and restoring the right of the buyer to his payment, the Courts below decided that the $57,990.00 belonged to Mr. Perez and not Torres Sr. at the time of his death. While there are some common facts (the transaction), the issue of standing is separable from the issues of whether there was proof that the $9,342.00 was intended to be

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[8] The stated purpose of CAFRA is "to make federal civil forfeiture procedures fair to property owners and to give owners innocent of any wrongdoing the means to recover their property and make themselves whole after wrongful government seizures." P.L. 106-185, Civil Asset Forfeiture Reform Act, H.R. Rep. No. 106-192, at 11 (1999).

illegally used and whether Claimant became the innocent owner of the BMW before the forfeiture proceeded.

In *Brand* this Court went farther than Amicus is urging, and granted fees on all claims, successful or not. But because of the separate and distinct nature of each piece of property and the claims here, Amicus is not asking the Court to apply the full force of the rule in *Brand* to this case. Indeed, the attorney's fee application made by Claimant's lawyer discounted his fees by removing the charges attributable to the unsuccessful standing arguments regarding the $57,990.00. CP 35-36.

4. *The Attorney's Fee Provision in RCW 69.50.505(f) Should Be Interpreted in a Manner Consistent with That under CAFRA*

Congress has addressed these issues in the Civil Asset Forfeiture Reform Act of 2000 (CAFRA), a statute passed in response to the growing abuse of forfeiture laws by federal agencies. Foremost among Congress's goals in passing CAFRA was to "to increase the due process safeguards for property owners whose property has been seized." H.R.Rep. No. 106-192 at 2 (1999); *See United States v. $80,180.00 in United States Currency*, 303 F.3d 1182, 1184 (9th Cir. 2002) (noting that CAFRA was enacted in response to "widespread criticism" of the civil forfeiture "regime"). To achieve this goal CAFRA 1) increased the burden of proof on forfeitures to a preponderance of the evidence; 2) permitted greater application of innocent owner defenses;

and 3) made it possible for claimants to secure legal counsel by providing for attorney fees awards to prevailing parties. 28 U.S.C. Section 2465(b)(1). Representative Hyde had earlier proposed making appointed counsel available in civil forfeiture proceedings to provide the indigent with a means of protecting their legitimate property interests.[9] Instead, the one-sided fee shifting approach was incorporated into the Act.

Before CAFRA claimants could seek attorney fees under the Equal Access to Justice Act if they "prevailed." 28 U.S.C. § 2412(b). The new language in CAFRA provided fees to those who "substantially prevailed." This was intended to liberalize the award of fees by not requiring that there be a total victory on the merits. *United States v. $60,201.00 U.S. Currency*, 291 F.Supp.2d 1126, 1130 (C.D. Cal. 2003). It is clear that the change of language from "prevail" to "substantially prevail" was seen as a relaxing of the threshold for the award of attorney's fees and not as an attempt to limit fees.

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9 This provision substitutes for the Hyde bill's more comprehensive appointment of counsel provision. It goes beyond the attorney fee award available under the Equal Access to Justice Act (EAJA) in several respects. Notably, the government is required to pay even if its position was substantially justified and there is no statutory limitation of $125 an hour, in contrast to the EAJA. This provision should work as intended to deter the government from bringing dubious forfeiture cases. It tempers the government's lust for booty with the fear of paying large attorney fees if it loses.

David B. Smith, An Insider's View of the Civil Asset Forfeiture Reform Act of 2000, 24-JUN Champion 28, 31. David Smith is the leading commentator on forfeiture law and advised the staffs of Senators Hatch and Leahy, and Rep. Henry J. Hyde's staff during the negotiations over S.1931 and assisted in drafting portions of the Act.

Thus, the passage of CAFRA set the stage for the modification of state forfeiture laws. After the passage of CAFRA, the Washington Legislature was lobbied to adopt a similar measure. The modifications were proposed in H.B. 1995, which was introduced on February 12, 2001. Most notably, the Legislature produced a substitute bill that made the same changes in burden of proof and attorney's fees that were contained in the federal enactment. The Washington EAJA used the language "prevailing" just like the federal law. The 2001 amendments used language identical to that in CAFRA and set the standard under RCW 69.50.505(6) at "substantially prevailing."

It is apparent from the timing of this enactment and the choice of language that the Washington Legislature intended that state law be modeled on the federal protections that had just gone into effect.

When signing the bill, Governor remarked:

> Engrossed Substitute House Bill No. 1995 provides **needed reform** to our civil forfeiture laws. This bill will provide **greater protection to citizens** whose property is subject to seizure by law enforcement agencies. Drug dealers should not be allowed to benefit from their illegally gotten wealth, but **we must not sacrifice citizens' rights** in our efforts to fight drug trafficking.

Guillen v. Contreras, 147 Wn. App. at 340-41 (Schultheis, C.J. *dissenting*).

The goals of the federal and state enactments were identical and the language used to express them matched. Under these circumstances, the

federal law and history should provide guidance in interpreting the amendments to RCW 69.50.505.

D. CONCLUSION

The legislature acted boldly to ensure the property rights of citizens could withstand the tide of abusive forfeitures that led to the amendments on both the federal and state levels. The Court of Appeals opinion is contrary to the concept of proceedings in which property is a defendant *in rem*. Worse yet, its result is contrary to the expressed legislative intent, limiting the class of cases in which successful claimants can be made whole. Affirmation of the Court of Appeals opinion would have a chilling effect on the assertion of property rights and would permit the seizing agency to succeed in cases where it ought not simply because a property owner has been cowed into limiting his or her claims.

Amicus urges this Court to properly effectuate the legislative intent and protect property values by treating each of the defendant properties as separate forfeitures. Because the Claimant prevailed entirely on his claims as to the $9,943.00 and the vehicle, he is entitled to recover his attorney fees.

Respectfully Submitted this 13th day of April, 2010,

ROBERT J. WAYNE, P.S.

Robert J. Wayne, Attorney for Amicus,
Washington Association of Criminal
Defense Lawyers
WSBA # 6131

CERTIFICATION OF SERVICE BY U.S. MAIL

I declare under penalty of perjury that on April 13, 2010, I placed a copy of this document in the U.S. Mail, postage prepaid, to:

Mr. Todd V. Harms
503 Knight Street, Suite A
Richland, WA 99352
Attorney for Appellant

Mr. Mark A. Kunkler
City of Sunnyside
Sunnyside City Hall
818 East Edison Avenue
Sunnyside, WA 98944
Attorney for Respondent

Robert J. Wayne, Attorney for Amicus

EXHIBIT A

SUNNYSIDE POLICE DEPARTMENT
NOTICE OF SEIZURE AND INTENDED FORFEITURE

TO: JESUS JAIME TORRES
831 S. MAITLAND AVE
PASCO, WA. 99301

Cause No.: 05-6842
Date of this Notice: 07-05-2005
Date of Seizure: 06-28-2005
Seizure Agency: Sunnyside Police DEPT
401 Home, Sunnyside, WA. 98944

Description of Property (Vehicle):
Year: 1997
Make: BMW
Model: 328 4-DR
Color: White
License: 139 SFW
Vin No.: WBABD3324VAV19408

Description of Property (Non-Vehicle):
U.S. Currency CASH ($9,342.00)
NINE THOUSAND THREE HUNDRED FORTY TWO DOLLARS @ 00/100.

You and each of you are hereby notified of the seizure and intended forfeiture of that certain property more particularly described above. Such seizure was accomplished by law enforcement officers of the above agency because that property was used or intended to be used in connection with an offense involving controlled substances in violation of RCW 69.50 et. seq.

If you fail to notify this office or the seizing agency in writing of any claim of ownership or right to possession of the subject property within 45 days of the seizure, the item seized shall be deemed forfeited. If you notify this office or the seizing agency in writing of a claim of ownership you shall be afforded a reasonable opportunity to be heard as to the claim or right. This notice and any such hearing shall be in accordance with Title 34 of the Revised Code of Washington.

Mark A. Kunkler
City Attorney for Dt Jaime Orth

RETURN OF SERVICE

I hereby certify that I am ~~a duly commissioned officer of the Sunnyside City Police Department~~ the City Attorney of the City of Sunnyside, Sunnyside, Washington, and that I served a copy of this notice on Address of Record for Jesus Jaime Torres

by: Mark Kunkler

Date Served July 7, 2005

Signed:

264327-000000194